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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 8th March 1973:—

BILL No. 3 OF 1973

A Bill further to amend the Indian Railways Act, 1890.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Indian Railways (Amendment) Act, 1973.

Short
title.

2. (1) In section 47 of the Indian Railways Act, 1890 (hereinafter referred to as the principal Act),—

Amend-
ment of
section
47.

(a) in sub-section (1), after clause (b), the following clause shall be inserted, namely:—

“(bb) for the cancellation of tickets (whether with reservation of accommodation or not), the circumstances under which, and the time-limit within which, such cancellation may be allowed and the charges payable therefor;”;

(b) in sub-section (2), for the words “fifty rupees”, the words “one hundred and fifty rupees” shall be substituted.

(2) All charges levied and collected, or purported to have been levied and collected under the principal Act for cancellation of tickets (whether with reservation of accommodation or not) at any time before the commencement of this Act, shall be deemed to have been validly levied and collected in accordance with law and accordingly no suit or other proceeding shall be maintained in any court for the refund of any such charges.

Amend-
ment of
section
82C.

3. In section 82C of the principal Act,—

(a) in sub-section (1), for the words “may be made”, the words “may be made to the Claims Commissioner” shall be substituted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) If an applicant desires to be paid interim relief under section 82HH, he may send to the railway administration a copy of the application made under sub-section (1) with a request for payment of such interim relief.”;

(c) in the *Explanation*, after the words “In this section”, the words, figures and letters “and section 82HH” shall be inserted.

Amend-
ment of
section
82E.

4. In section 82E of the principal Act, in the proviso to sub-section (1),—

(a) in clause (ii), the word “and” shall be omitted;

(b) for clause (iii), the following clauses shall be substituted, namely:—

“(iii) the payment by way of interim relief, if any, made to the applicant by the railway administration under section 82HH is not adequate; and

(iv) the amount of compensation directed to be paid under this section together with the payment by way of interim relief, if any, made under section 82HH is not likely to exceed the actual amount of compensation that may ultimately become payable.”.

Insertion
of new
section
82HH.

5. After section 82H of the principal Act, the following section shall be inserted, namely:—

Interim
relief by
railway
adminis-
tration.

“82HH. (1) Where on receipt of an application under sub-section (2A) of section 82C and after making such enquiry as it may deem fit, the railway administration is satisfied that circumstances exist which require relief to be afforded to an applicant for compensation immediately, it may, pending determination of the actual amount of compensation payable under section 82A, pay to any person who has sustained injury or suffered any loss, or where death has resulted from the accident, to any dependant of the deceased, such sum as it considers reasonable for affording such relief, so, however, that the sum paid shall not exceed the amount of compensation payable at the rates prescribed under the rules made under section 82J.

(2) The railway administration shall, as soon as may be, after making an order regarding payment of interim relief under sub-section (1), send a copy thereof to the Claims Commissioner.

(3) Any sum paid by the railway administration under sub-section (1) shall be taken into account by the Claims Commissioner while determining the amounts of compensation payable.”.

Amend-
ment of
82I.

6. In section 82I of the principal Act, for the figures and letter “82H”, the figures and letters “82HH” shall be substituted.

7. In section 108 of the principal Act, the following proviso shall be inserted at the end, namely:—

Amend-
ment of
section
108.

“Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, where a passenger, without reasonable and sufficient cause, makes use of the alarm chain provided by a railway administration, he shall be published—

(a) in the case of conviction for the first offence, with fine which shall not be less than twenty-five rupees; and

(b) in the case of conviction for the second or subsequent offence, with imprisonment for a term which shall not be less than one month.”.

8. In section 118 of the principal Act,—

Amend-
ment of
section
118.

(a) in sub-section (1), for the words “with fine which may extend to twenty rupees”, the words “with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both” shall be substituted;

(b) in sub-section (2), for the words “with fine which may extend to fifty rupees”, the words “with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred and fifty rupees, or with both” shall be substituted.

9. In section 120A of the principal Act,—

Amend-
ment of
section
120A.

(a) in sub-section (1), the following proviso shall be inserted at the end, namely:—

“Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such fine shall be not less than fifty rupees.”;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) If any person convicted of an offence under sub-section (1) commits a like offence afterwards, he shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred and fifty rupees, or with both.”;

(c) in sub-section (2), after the word, brackets and figure “sub-section (1)”, the words, brackets, figure and letter “or sub-section (1A)” shall be inserted.

10. In section 122 of the principal Act,—

Amend-
ment of
section
122.

(a) in sub-section (1), for the words “with fine which may extend to twenty rupees”, the words “with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both” shall be substituted;

(b) in sub-section (2), for the words “with fine which may extend to fifty rupees”, the words “with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred and fifty rupees, or with both” shall be substituted.

Amend-
ment of
section
126.

11. Section 126 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(a) in sub-section (1) as so re-numbered, for the words "If a person unlawfully—", the words, brackets and figure "Subject to the provisions of sub-section (2), if a person unlawfully—" shall be substituted;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) If a person unlawfully does any act or thing referred to in clause (a) or clause (b) or clause (c) or clause (d) or clause (e) of sub-section (1),—

(i) with intent to cause the death of any person and the doing of such act or thing causes the death of any person; or

(ii) with knowledge that such act or thing is so imminently dangerous that it must in all probability cause the death of any person or such bodily injury to any person as is likely to cause the death of such person,

he shall be punished with death or imprisonment for life."

Insertion
of new
section
126A.

12. After section 126 of the principal Act, the following section shall be inserted, namely:—

Damage
to, or
destruc-
tion of,
certain
railway
properties.

"126A. (1) Whoever, with intent to cause or knowing that he is likely to cause damage or destruction to any of the properties of a railway referred to in sub-section (2) causes by fire, explosive substance or otherwise, damage to such property to the amount of one hundred rupees or upwards, or destruction of such property, shall be punished with imprisonment for a term which may extend to ten years.

(2) The properties of a railway referred to in sub-section (1) are railway track, bridges, station buildings and installations, carriages or wagons, locomotives, signalling, telecommunication, electric traction and block equipments and such other properties as the Central Government, being of opinion that damage thereto or destruction thereof is likely to endanger the operation of a railway, may, by notification in the Official Gazette, specify.

(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament immediately after it is made if it is in session and on the first day of the commencement of the next session of the House if it is not in session, and shall cease to operate at the expiration of forty days from the date of its being so laid or from the re-assembly of Parliament, as the case may be, unless before the expiration of that period a resolution approving the issue of the notification is passed by both Houses of Parliament.

Explanation.—Where the Houses of Parliament are summoned to re-assemble on different dates, the period of forty days shall be reckoned from the later of those dates."

Amend-
ment of
section
131.

13. In section 131 of the principal Act, in sub-section (1), after the figures "126," the figures and letter "126A," shall be inserted.

STATEMENT OF OBJECTS AND REASONS

It has been found that the Indian Railways Act, 1890 has no provision authorising recovery of cancellation charges when reservations made for rail journeys are cancelled or tickets are otherwise returned for cancellation without being used. Such a provision authorising recovery of cancellation charges is essential, particularly to curb speculative reservations, which cause inconvenience to the general public. In fact, the recovery of such cancellation charges is already provided for in the rules framed by the Railways, but in the absence of an enabling provision in this behalf in the Act, it is doubtful whether such rules could validly be made. This lacuna is proposed to be removed by a suitable amendment of section 47 of the Act, with a further provision for validating all past recoveries of cancellation charges.

2. It is also considered necessary to amend suitably Chapter VII of the Act to secure prompt relief in the shape of interim payment of compensation in cases of accidents to trains carrying passengers. This interim payment will, of course, be taken into consideration by the Claims Commissioners in making the final settlement of compensation.

3. Experience has shown that the penal provisions for offences covered under sections 47, 108, 118, 120A, 122 and 126, relating to carrying inflammable articles in trains, unjustified pulling of the alarm chain, entraining or detraining in unauthorised places, unauthorised hawking, trespass and tampering with railway track and wilful wrecking of trains, are not sufficiently deterrent. Considering that the incidence of such offences on the railways has been increasing and causing serious concern, the relevant penal provisions are sought to be made more stringent. In the case of wrecking of trains, it is proposed to provide for imposition of the death penalty where deaths have occurred as a result of the wrecking of a train or where the person committing the act knows that it will be so imminently dangerous that it would, in all probability, cause death or such bodily injury as is likely to result in death.

4. As it is, there is in the Indian Railways Act no provision to cover cases of destruction of railway property except if it endangers, or is likely to endanger, the safety of any person travelling or being upon the railway. A new section 126A is proposed to be inserted to cover such offences.

5. The Bill seeks to give effect to the above objects.

NEW DELHI;

L. N. MISHRA.

The 15th February, 1973.

FINANCIAL MEMORANDUM

Clause 5 of the Bill seeks to insert a new section 82HH providing for payment of interim relief by the Railway Administrations to the claimants for compensation which would be taken into consideration by the Claims Commissioners in awarding the final compensation. The provision will not, therefore, involve any additional expenditure to Government.

The expenditure involved in the payment of interim relief in a particular year will depend upon the number of accidents to trains carrying passengers in that year and the number of passengers killed or those sustaining injuries. The number of such accidents and the total amount of compensation paid on Indian Railways during the three years from 1968-69 to 1970-71 was as under:—

Year	Total amount Rs.	Total No. of accidents
1968-69	2,52,988	222
1969-70	11,14,641	298
1970-71	2,31,153	267
	<hr/>	<hr/>
Total	15,98,782	787
	<hr/>	<hr/>
Average per year	5,32,927	262

As a result of the various safety measures which are being adopted by the Railways, the average annual expenditure involved in payment of interim relief to passengers in a year may not exceed the average yearly compensation paid by the Claims Commissioners during the last three years.

This Bill does not involve any non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to amend section 47 of the Indian Railways Act, 1890, *inter alia* for empowering the Central Government to make rules for the cancellation of tickets (whether with reservation of accommodation or not), the circumstances under which and the time limit within which such cancellation may be allowed and the charges payable therefor. In fact, the recovery of such cancellation charges is already provided for in the rules framed by the Railways, but in the absence of an enabling provision in that behalf in the Act, it is doubtful whether such rules could validly be made. The amendment proposed is intended to remove any room for doubt. Moreover, the matters for which the Central Government is being empowered to make rules are matters of detail and the delegation of legislative power is of a normal character.

2. Clause 12 of the Bill seeks to insert a new section 126A in the Act for the purpose of punishing persons causing damage to or destruction of certain railway properties even where it does not endanger the safety of any person travelling or being upon the railway. The description of railway properties with respect to which the new section will apply is specified in sub-section (2) of the said section 126A. As it is not possible to enumerate all such properties, power has been taken by the Central Government to specify, by notification in the Official Gazette, other railway properties damage to which or destruction whereof is, in the opinion of the Central Government, likely to endanger the operation of railways. Provision has been made in sub-section (3) of the new section 126A for laying before Parliament every such notification to be issued by the Central Government and obtaining approval of Parliament thereto. In the circumstances, the delegation of Legislative power is of a normal character.

S. L. SHAKDHER,
Secretary.

